

SENATE JOURNAL

SEVENTIETH LEGISLATURE — SECOND CALLED SESSION

AUSTIN, TEXAS

PROCEEDINGS

FIRST DAY

(Monday, June 22, 1987)

In obedience to the Proclamation of the Honorable William P. Clements, Jr., Governor of the State of Texas, the Senate met in the Senate Chamber of the State Capitol at Austin, Texas, on the 22nd day of June, 1987, at 2:00 p.m. and was called to order by the Honorable William P. Hobby, Lieutenant Governor and President of the Senate.

The President directed the Secretary of the Senate to call the roll of the Senate.

The roll was called and the following Senators were present: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Farabee, Glasgow, Henderson, Johnson, Jones, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Tejeda, Truan, Uribe, Whitmire, Zaffirini.

Absent-excused: Edwards, Green, Harris, Washington.

The President announced a quorum of the Senate present.

Senate Doorkeeper Jim Morris offered the invocation as follows:

Heavenly Father, we come before You gathered in trust and with confidence the goals and objectives of this session are attainable. In the work sessions ahead we pray You will grant to the men and women of the Senate the will and determination to move our State ahead. May hope and expectancy prevail along with uprightness and integrity as the session progresses. In Your name, Amen.

LEAVES OF ABSENCE

Senator Harris was granted leave of absence for today on account of important business on motion of Senator Blake.

Senator Green was granted leave of absence for today on account of important business on motion of Senator Blake.

Senator Washington was granted leave of absence for today on account of important business on motion of Senator Johnson.

Senator Edwards was granted leave of absence for today on account of important business on motion of Senator Blake.

PROCLAMATION FROM GOVERNOR CALLING SPECIAL SESSION

The President laid before the Senate the following Proclamation from the Governor:

**PROCLAMATION
BY THE
GOVERNOR OF THE STATE OF TEXAS
41-2141**

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Under the provisions of Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby call a special session of the 70th Legislature, to be convened at the City of Austin, commencing at 2:00 p.m., Monday, the 22nd day of June, 1987, for the following purposes:

(1) to consider legislation appropriating money for the support of the Judicial, Executive and Legislative Branches of the State Government, for the period beginning September 1, 1987, and ending August 31, 1989, and authorizing and prescribing conditions, limitations, rules and procedures for allocating and expending the appropriated funds;

(2) to consider legislation relating to state budget execution;

(3) to consider a constitutional amendment prohibiting the imposition of a personal income tax;

(4) to consider a constitutional amendment prohibiting the imposition of a corporate income tax;

(5) to consider legislation relating to public notice of financial information of political subdivisions;

(6) to consider legislation relating to the consolidation and reporting of State and Federal funds;

(7) to consider legislation relating to the creation, powers and duties of a State Personnel Office;

(8) to consider legislation relating to creation of a Select Committee on State Government Management Effectiveness;

(9) to consider legislation relating to creation of a Select Committee on State and Local Retirement Systems; and

(10) to consider legislation relating to creation of a Select Committee on Judicial Reform.

The Secretary of State shall take notice of this action and notify the members of the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 18th day of June, 1987.

/s/W. P. Clements, Jr.
William P. Clements, Jr.
Governor of Texas

ATTEST:

/s/Jack M. Rains
Jack M. Rains
Secretary of State

The Proclamation was read and was filed with the Secretary of the Senate.

SENATE RESOLUTION 5
(Caucus Report)

Senator Brooks offered the following resolution:

Honorable William P. Hobby
Lieutenant Governor
Senate of Texas
Austin, Texas

Sir:

At a caucus held in the office of the Senate attended by 24 Members of the Senate, the following recommendations were made, to wit:

BE IT RESOLVED by the Senate, That:

The following officers were elected to serve for the 70th Legislature, 2nd Called Session, at the will of the Senate:

Secretary of the Senate - Betty King
Sergeant-at-Arms - Carleton Turner
Doorkeeper - James Morris
Calendar Clerk - Kay Hughes
Enrolling Clerk - Patsy Spaw
Journal Clerk - Margrette Vollers

All officers and employees appointed by this caucus shall hold their office of employment for the duration of the 70th Legislature, 2nd Called Session.

It is recommended that the Lieutenant Governor and the Secretary of the Senate each be permitted to name secretarial staff and assistants at salaries designated by the Lieutenant Governor and the Administration Committee respectively. The Parliamentarian, Camilla Bordie, is to be named by the Lieutenant Governor.

It is further recommended that the Administration Committee appoint a sufficient number of custodians, messengers, elevator operators, porters, and other employees as may be necessary. The President of the Senate is authorized to designate any member of the Senate or Senate staff to attend official meetings of national governmental organizations during the 70th Legislature, 2nd Called Session, while in session. Actual and necessary expenses are hereby authorized as reimbursement for such trips.

It is further recommended that each Senator shall be permitted a maximum payroll of \$13,500.00 per month for secretarial and other office staff and for intrastate travel expenses for staff employees. In order to accrue vacation leave, compensatory/overtime leave, or sick leave, employees of members must file monthly time sheets with the Senate Personnel Office by the 10th of the month following the month in which work was performed. Employees of members and committees must use compensatory/overtime accrued in a given month by the end of the same month of the following year. Compensatory/overtime accrued prior to January 1, 1987, will not be carried forward after January 1, 1988. No compensatory/overtime will be paid at either the end of the fiscal year or at an employee's termination.

The Lieutenant Governor, Senators, and the Secretary of the Senate are hereby fully authorized and empowered to use any assistant Sergeant-at-Arms and all other necessary employees for any and all services needed in and about the Senate.

It is further recommended that the Lieutenant Governor, each Senator, and the Secretary of the Senate be permitted to subscribe for newspapers as necessary to be paid out of the contingent fund and be allowed the stationery and postage needed by them respectively, and expenses incurred in transmitting and receiving telephone and telegraph messages and express charges as may be actually necessary in the discharge of their official duties, said expenses to be paid out of the contingent fund.

It is further recommended that not to exceed 700 journals be printed, all of which shall be prorated among the Senators and Lieutenant Governor, except that 175 journals shall be furnished the members of the House.

It is further recommended that the Legislative Reference Library be furnished 60 copies of the daily journal.

It is further recommended that all salaries and expenses herein authorized to be incurred and paid for shall be paid out of the per diem and contingent expense fund of the 70th Legislature as follows: the Senate shall request the State Comptroller of Public Accounts to issue general revenue warrants for the payment of the employees of the Lieutenant Governor's office, the Lieutenant Governor, Members of the Senate, employees of the Senate committees, and employees of the Senate, except as provided in Section 20 of the Legislative Reorganization Act (Article 5429f, Vernon's Texas Civil Statutes), upon presentation of the payroll account signed by the Chairman of the Administration Committee and the Secretary of the Senate; and for the payment of materials, supplies, and expenses of the Senate, including travel expenses for Members and employees, upon vouchers signed by the Chairman of the Senate Committee on Administration and the Secretary of the Senate.

It is further recommended that no employee of the Senate shall, during the time he or she is employed, furnish to any person, firm, or corporation any information other than general information furnished the public pertaining to the Senate, and they shall not without permission receive any compensation from any person, firm, or corporation during their employment by the Senate, and any employee found guilty of violating this provision shall be immediately discharged.

All employees, except those responsible directly to the Lieutenant Governor, Members of the Senate, Secretary of the Senate, committee, or to the head of a department, shall report for duty at 8 a.m. and 1:00 p.m. each day to the Sergeant-at-Arms of the Senate, except part-time employees, who shall report at the place and time directed by the Sergeant-at-Arms, and none of such employees shall be paid for the days they are absent from the Senate, unless excused by the Sergeant-at-Arms.

It is further recommended that the chairman of each standing committee shall have authority to employ such additional employees of his own selection as may be needed by said committee, said employees to receive the same compensation paid similar positions as herein fixed, and to discharge the duties of said standing committee, subject to the approval of the Administration Committee.

It is further recommended that no employee of the Senate, except those whose official duties require them to work upon the floor of the Senate, shall have access to the floor unless that employee shall have been requested by a Senator, the Lieutenant Governor, or the Secretary of the Senate to come on the floor for some official duty, after the performance of which he shall immediately leave the floor of the Senate. The Sergeant-at-Arms is specifically ordered to see that this provision is carried out.

Only those who have privileges of the floor during the session of the Senate shall be permitted on the Senate floor for a period of 30 minutes prior to the time the Senate convenes. The Sergeant-at-Arms is instructed to enforce this rule and to permit only those having the privileges of the floor to enter or remain on the Senate floor during such 30-minute period.

Respectfully submitted,

/s/Brooks

Chairman of the Caucus

/s/Blake

Secretary of the Caucus

MOTION IN WRITING

S.C.R. 2 by Brooks, Zaffirini Administration
Establishing an interim committee to study all aspects and issues relating to the management of all waste products by local, state and federal governments.

S.J.R. 1 by Uribe State Affairs
Proposing a constitutional amendment relating to the establishment of a state lottery.

S.J.R. 2 by Brown Committee of the Whole Senate
Proposing a constitutional amendment prohibiting the imposition of personal and corporate net income taxes.

S.B. 1 by Jones, Brooks Finance
Appropriating money for the support of the Judicial, Executive, and Legislative Branches of the State Government, for the construction of State buildings, and for State aid to public junior colleges, for the period beginning September 1, 1987 and ending August 31, 1989; authorizing and prescribing conditions, limitations, rules, and procedures for allocating and expending the appropriated funds; and declaring an emergency.

S.B. 2 by Lyon State Affairs
Relating to the required wearing of protective headgear by motorcycle riders.

S.B. 3 by Uribe State Affairs
Relating to the establishment and operation of a state lottery; providing penalties.

S.B. 4 by Jones Finance
Relating to priority of certain state transfers and payments.

S.B. 5 by Jones Finance
Relating to the proration of state aid to school districts.

S.B. 6 by Jones Finance
Relating to appropriations for and payment of certain miscellaneous claims and judgments against the state.

S.B. 7 by Jones Finance
Relating to state budget execution.

S.B. 8 by Washington Committee of the Whole Senate
Relating to the imposition, administration, collection, and civil and criminal enforcement of a corporate profits tax.

S.B. 9 by Washington Committee of the Whole Senate
Relating to the imposition, collection, administration, and civil and criminal enforcement of a tax on the income of certain resident and nonresident individuals, trusts and estates, and partnerships.

GUESTS PRESENTED

Senator Barrientos was recognized and introduced participants in Girls' State.

The Senate welcomed these guests, seated in the gallery.

Senator Blake, upon recognition, introduced Ms. Mindy Montford, a participant in Girls' State.

Ms. Montford, seated at her father's desk, was welcomed by the Members of the Senate.

ELECTION OF PRESIDENT PRO TEMPORE FOR SECOND CALLED SESSION OF THE SEVENTIETH LEGISLATURE

The President announced the election of a President Pro Tempore for the 2nd Called Session of the 70th Legislature as the next order of business.

Senator Brooks nominated Senator Roy Blake of Nacogdoches as President Pro Tempore for the 2nd Called Session of the 70th Legislature.

Senator Sims seconded the nomination and escorted Senator Blake to the President's Rostrum after his election by acclamation.

The President administered the Oath of Office to Senator Blake as President Pro Tempore for the 2nd Called Session.

Senator Blake once again expressed his appreciation for the honor of serving the Senate in this capacity.

SENATE RULE 103 SUSPENDED

On motion of Senator Jones and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Finance might consider S.B. 1 at 3:30 p.m. today.

ESCORT COMMITTEE APPOINTED

In accordance with the provisions of S.C.R. 3, the President announced the appointment of the following as a Committee to Escort the Honorable Bob Bullock, Comptroller of Public Accounts of the State of Texas, to the Joint Session: Senators Anderson, Blake, Glasgow, McFarland and Parmer.

SENATE RESOLUTION 7

Senator Sims offered the following resolution:

WHEREAS, American Society has determined the birthday marked by two score of years to be a significant milestone in a person's life; and

WHEREAS, Some claim that life begins at forty, and others use the birthday commemorated by four decades to signify someone is "Over the hill"; and

WHEREAS, A youthful looking first-term Senator from Victoria is at the same time beginning a new life in politics and is picking up speed as he rolls down that hill; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 70th Legislature, 2nd Called Session, hereby extend sincere birthday greetings and many happy returns to Senator Ken Armbrister; and, be it further

RESOLVED, That the Senate of Texas stand adjourned today in honor of the birthday of Senator Ken Armbrister.

The resolution was read and was adopted viva voce vote.

MESSAGE FROM THE HOUSE

House Chamber
June 22, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 3, Inviting the Honorable Bob Bullock, Comptroller of Public Accounts of the State of Texas, to address the 2nd Called Session of the 70th Legislature in Joint Session at 2:30 p.m. Monday, June 22, 1987.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE NOTIFIED

A Committee from the House of Representatives appeared at the Bar of the Senate and Representative Larry for the Committee notified the President and Members of the Senate that the House was organized and ready to transact business.

GOVERNOR NOTIFIED

The Committee to Notify the Governor that the Senate was organized and ready to transact business appeared at the Bar of the Senate and Senator Farabee for the Committee notified the President and Members of the Senate that the Committee had performed the duty assigned it.

The Committee was discharged.

HOUSE NOTIFIED

The Committee to Notify the House of Representatives that the Senate was organized and ready to transact business appeared at the Bar of the Senate and Senator Armbrister for the Committee notified the President and Members of the Senate that the Committee had performed the duty assigned it.

The Committee was discharged.

MOTION TO ADJOURN

On motion of Senator Brooks, the Senate at 2:22 p.m. agreed to recess until 2:30 p.m. today to attend the Joint Session and at the conclusion of the Joint Session would stand adjourned until 10:00 a.m. tomorrow.

AT EASE

The President at 2:22 p.m. announced the Senate would stand At Ease until 2:30 p.m. for the Joint Session.

JOINT SESSION

(To hear address by the Honorable Bob Bullock, Comptroller of Public Accounts)

The President of the Senate and the Senators present, accompanied by the Secretary of the Senate and the Sergeant-at-Arms, proceeded to the Hall of the House of Representatives at 2:30 p.m., pursuant to the provisions of S.C.R. 3.

The Senators were announced and were admitted and escorted to seats prepared for them along the aisle.

The Honorable Bob Bullock, Comptroller of Public Accounts, was escorted to the Speaker's Rostrum by Senators Anderson, Blake, Glasgow, McFarland and Parmer on the part of the Senate and Representatives A. Luna, Berlanga, Craddick, Earley, L. Evans, Geistweidt, Hackney, Hilbert, McDonald, Morales, Schlueter, Wilson and Wolens on the part of the House.

The President called the Senate to order and announced a quorum of the Senate present.

The Honorable Gib Lewis, Speaker of the House of Representatives, called the House to order, announced a quorum of the House present and stated the purpose of the Joint Session.

Speaker Lewis presented the President to the Joint Session and the President introduced the Honorable Bob Bullock who addressed the Joint Session as follows:

"You have honored me, by your invitation to speak here today, although I am confident that my message beat me to this podium."

The last time, you invited me to speak, you asked me to come talk about money.

I said at the time, that I could make the shortest talk in legislative history. You simply didn't have any.

Today, I would say you have even less.

As you know, we issued our revenue estimate for this Special Session, week before last.

In our new estimate, we reduced the projected State revenues for '87, '88 and '89, by \$698 million.

This reduction begs two questions, that I want to talk about today—the number and the timing.

First, let's take the number itself. Six hundred ninety-eight million dollars represents only 2% of the total money in the estimate—but it represents a lot of services to Texans.

Now, let's talk about the timing of reducing the revenue estimate, just 21 days after the end of the Regular Session.

I find no humor in the situation, yet, it might explain why there are no old revenue estimators—just old Comptrollers.

Our revenue estimate for the Regular Session in January, was based on our belief that the Texas economy would start recovering in the spring.

Most—if not all—of the economists in this State agreed, and some were even more enthusiastic about it, than we were.

Well, that was January.

And then, late February, we saw actual dollars coming into our office—fall below our expectations.

And, the same thing happened in March.

And, the same thing happened in April.

What we saw was of serious concern to us, but it was not—at the time—enough of a trend to warrant reducing our January estimate.

By mid-May, we again analyzed the reports of our largest taxpayers.

It showed, among other things, that of the top 200 taxpayers who prepay their taxes in advance, fully half had overestimated their payments.

Yes, half of our 200 top taxpayers had over-estimated and overpaid their taxes.

In other words, the tax managers, economists, and marketing men of some of our top taxpayers, had made the same mistake we had made about the projected recovery.

But, our analysis showed more than we just had company, in misjudging the timing of our recovery.

Our analysis showed that the slump in tax collections did not come from the retail industries.

It came from lower-than-expected activity in the heavy industries, the kind of investment in plants, machinery, and equipment, necessary to drive the rest of our economy.

By the 1st of June, current sales tax collections were down millions, from our January projected levels.

It was apparent—from this, and other indicators—that the spring recovery had not occurred.

Economic recovery has a domino effect. When you push back the recovery, you push back everything down the line.

Consequently, we had no choice, but to revise downward, our expectations for the rest of this year, and for the two years ahead.

Even though, we are now pushing back the timing of our recovery, this is not to say that the Texas economy will not grow.

Quite the contrary—we do expect the economy to grow in 1988-89, but not much.

Without this slight growth, the new revenue picture would have been much worse.

There is a lag, between economic activity and State revenue.

And, an even greater problem, is the fact that the Texas economy, and the Texas tax structure, do not mirror each other.

I know that sounds like I'm making a sales pitch to broaden the State's tax base.

Well, I'm not doing that. We've made our pitch, and we've given it our best shot.

From here on, the proof is in the pudding—and the pudding is a changing economy, and a declining tax system.

And, the gap will widen as the days, the months, and the years go by.

You can take it from there...which is to say, you take it from here.

To look backward is instructive, but the answers to today's problems are not what we used to be...or, what we used to do—or, what we used to have.

Just over a year ago, the bottom fell out of world oil prices.

But, the fact is, that we are in our 6th year of declining oil prices and production.

Initially, the decline was slight, and did not trigger any great alarm.

Even though the price continued downward, it seemed that many Texans held out hope, that someday the price would go up again.

Of course, it has—and our revised estimate includes \$106 million in additional oil and gas revenue, thanks to these price increases.

But, a word of caution to those who believe that increased oil prices are our financial salvation.

For many years, we used the rule of thumb that every \$1 in the price of oil was worth \$100 million in State revenue—up or down.

And, it took only ten of these \$1 per barrel increases to make a billion dollars.

Today, we can only say that \$1 in the price of oil is worth \$30 million in State revenue—up or down.

And, let me make this further point about oil prices and the State oil tax.

The so-called, per barrel price of oil that you see quoted in the newspaper, is not the same as the figure the tax is based on...and, here's why.

The media, and the industry, uses a price figure—which changes daily—for one certain grade of crude oil, a crude called West Texas Intermediate.

West Texas Intermediate just happens to be the best, highest crude oil there is.

But, not every oil well in Texas produces West Texas Intermediate. Texas has sizeable production in lower grades and they sell at lower prices.

The result is, an average taxable price in our estimate, that will be lower than the commonly used price reference.

And, for those of you who still believe that increased oil prices will solve our problems, you might like to know that oil would have to go to \$40-\$50 a barrel immediately, and stay there a full year, just to make up the \$1 billion 1987 deficit.

Texans need hope, but the oil and gas industry isn't the place to pin it.

These are unusual times, with unusual problems, that do not lend themselves to business-as-usual.

It was 1958, 29 years ago, that the State budget first topped \$1 billion.

And, it was 1960, 27 years ago, that Regular Sessions of the Legislature were first limited to 140 days.

The problems, the policies, the practices of 27 and 28 and 29 years ago, are not good yardsticks for today.

In that respect, I think it is wrong for anyone to say that this Legislature—quote—“failed”...because a State budget was not adopted in 140 days.

There is a proverb which says, better twice measured than once wrong. And, so it is with your work in this Special Session.

Thank you and good luck."

MEMORIAL RESOLUTIONS

S.R. 3 - By Brooks: Memorial resolution for Les G. Farmer, Jr.

S.R. 4 - By Armbrister: Memorial resolution for James Hubert Horny.

S.R. 6 - By Parker: Memorial resolution for Vera Evelyn Cox Ford Lea.

CONGRATULATORY RESOLUTIONS

S.R. 1 - By Parmer: Extending best wishes to James Douglass Shear, Sr., and Ruth Justin Shear on their 50th anniversary.

S.R. 2 - By Brown: Extending congratulations to James H. Hanson on his 101st birthday.

S.R. 8 - By Armbrister: Extending birthday greetings to Edgar B. Wells.

ADJOURNMENT

The President announced the purpose of the Joint Session had been accomplished and declared the Senate at 2:50 p.m. adjourned until 10:00 a.m. tomorrow in accordance with a motion previously adopted by the Senate.

SECOND DAY

(Tuesday, June 23, 1987)

The Senate met at 10:00 a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Henderson, Johnson, Jones, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Tejeda, Truan, Uribe, Washington, Zaffirini.

Absent-excused: Harris, Whitmire.

A quorum was announced present.

Senate Doorkeeper Jim Morris offered the invocation as follows:

Our Father, this morning we give thanks for the privilege of being a participant in the government of our State. Thank You for these who give much of themselves as problem solvers and pray they will continue to face the State's difficulties with confidence and self-assurance. There is an answer and we know it is within the minds and hearts of this Senate body. Bless them—each one. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

Senator Whitmire was granted leave of absence for today on account of important business on motion of Senator Brooks.